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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,677	06/24/2003	Masahiko Kawahara	10877.0054US01	8278

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/608,677

Applicant(s)

KAWAHARA, MASAHIKO

Examiner

James R. Brittain

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 6-8 is/are allowed.
- 6) ☒ Claim(s) 5 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

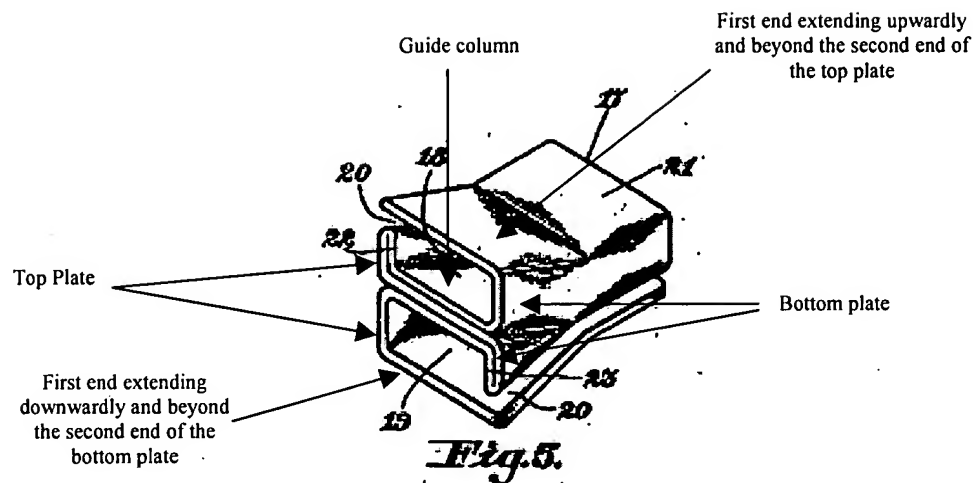
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 9 is rejected under 35 U.S.C. §102(b) as being clearly anticipated by Sundback (US 2077350).

Sundback (figure 5) teaches a slide fastener for closing and opening fastener tapes comprising: a guide column inherently capable to perpendicularly engage fastener tapes; a top plate provided above the guide column and a bottom plate provided below the guide column; the top plate including a first and a second end, the first end extending downward and forming a left side part and the second end extending into an open space; the bottom plate including a first end and a second end, the first end extending upward and forming a right side part and the second end extending to an open space; wherein the left side part extends beyond the second end of the bottom plate and the right side part extends beyond the second end of the top plate; and wherein left and right fastener element housing are formed between the guide column and the left and right side parts. The slide fastener is claimed and the tapes are not claimed in combination. The phrase “to perpendicularly engage fastener tapes” (line 2) is a statement of intended use as is “for closing and opening fastener tapes” (line 1) and the slide of Sundback is fully capable of being used in such a fashion.

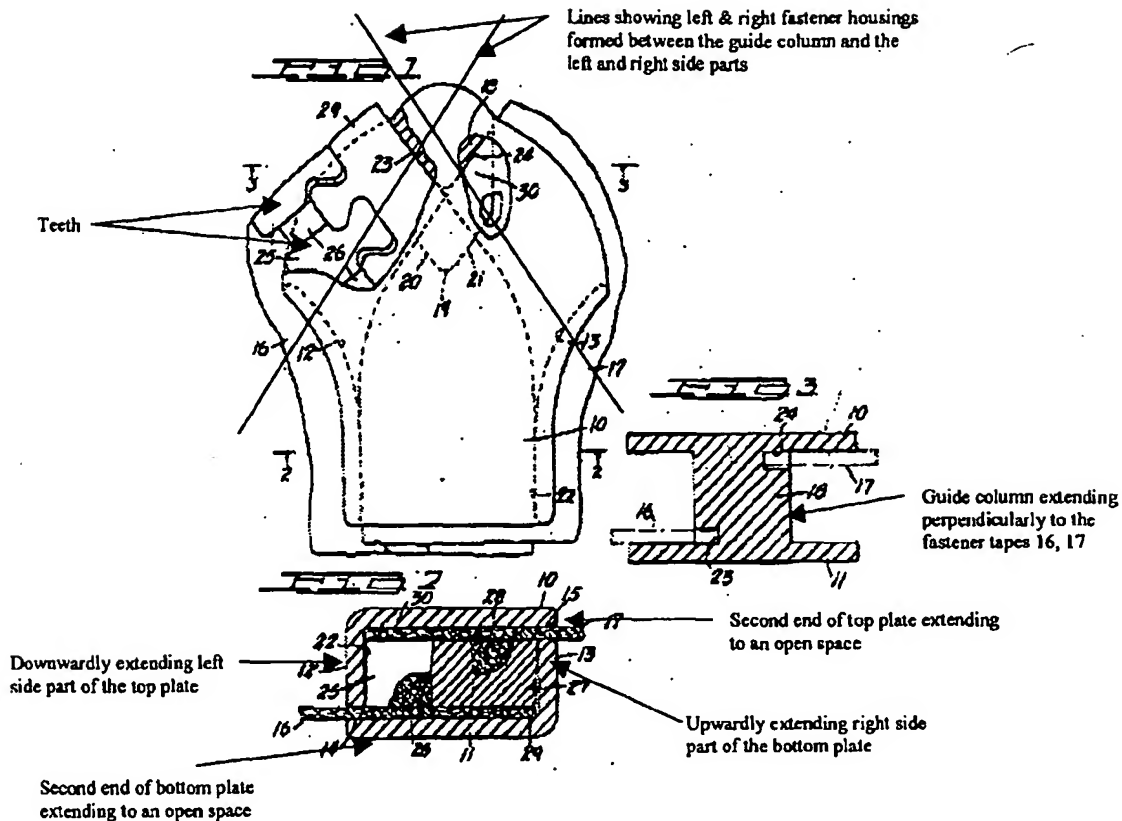
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Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Morin (US 3129479) in view of Marinsky (US 2325332).

Morin (figures 1-3) teaches slide fastener structure for closing and opening fastener tapes comprising: a guide column 18 constructed to perpendicularly engage fastener tapes 16, 17; a top plate 10 provided above the guide column and a bottom plate 11 provided below the guide column; the top plate 10 including a first and a second end, the first end extending downward and forming a left side part 12 and the second end extending to an open space; the bottom plate 11 including a first end and a second end, the first end extending upward and forming a right side part 13 and the second end extending to an open space; and wherein left and right fastener element housings are formed between the guide column and the left and right side parts.

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While Morin does not teach the left and right fastener element housing preventing the fastener tapes from entering therein, Marinsky (figures 1-6) teaches overlapping tape structure 10, 11 with a slider structure that does not admit the fastener tapes, while admitting the interengaging teeth so as to provide easier assembly. As easier assembly of the fastener of Morin is desirable, it would have been obvious to modify the slider and interengaging teeth so that the fastener tapes are not admitted into the slider as taught to be desirable in the overlapping fastener tapes of Marinsky so as to permit easier assembly.

### *Response to Arguments*

Applicant's arguments have been fully considered but they are not persuasive.

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In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as indicated in the previous office action and reiterated above “Marinsky (figures 1-6) teaches overlapping tape structure 10, 11 with a slider structure that does not admit the fastener tapes, while admitting the interengaging teeth so as to provide easier assembly. As easier assembly of the fastener of Morin is desirable, it would have been obvious to modify the slider and interengaging teeth so that the fastener tapes are not admitted into the slider as taught to be desirable in the overlapping fastener tapes of Marinsky so as to permit easier assembly”. The previous office action clearly indicated with respect to claim 5 that while Morin does not teach the left and right fastener element housing preventing the fastener tapes from entering therein, such structure would have been obvious in view of Marinsky for the reasons given above. It is hard to see how an easier assembly of the slider upon the tapes, which would be inherent since the tapes are not inserted into the slider and would not snag on the slider edges, would not qualify as motivation for combining the teachings of Marinsky with those of Morin.

***Allowable Subject Matter***

Claims 1-4 and 6-8 are allowed over the art of record.

***Conclusion***

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

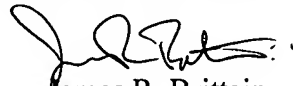
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB